

Topsfield Conservation Commission

Minutes for February 27, 2008

Topsfield Library Conference Room

The meeting was called to order at 7:09 p.m. with a quorum present: Walter Harmer, Chair; John McArdle; Thomas Warren; Ralph Stump; Wade Goldman; John Olcott; Lana Spillman, Administrator; and Catherine Tinsley, Minutes Secretary

Abbreviations used:

TCC – Topsfield Conservation Commission

AOoC – Amended Order of Conditions

CoC – Certificate of Compliance

BVW – Bordering Vegetated Wetland

OoC – Order of Conditions

EO – Enforcement Order

NoI – Notice of Intent

OPEN MEETING:

The Commission signed bills, authorizations, and time sheets.

HEARINGS:

Continuation NoI 307-____: 18 Brook Road, (Map 39, Lot 11), Angel Barbosa

Harmer reported that a DEP file number has not yet been assigned. The TCC secretary is following up with the DEP. Spillman said that Mr. Barbosa contacted the TCC office to inform them that his payment was credited to the wrong town; this is in the process of being resolved.

Sump made a motion to continue the hearing under the Act and the Bylaw until March 12, 2008 in order to receive the DEP file number. The motion was seconded and carried unanimously.

At 8:47 P.M. – Barbosa had arrived and presented the TCC with the DEP comments he had just received. Barbosa noted that he has two feet of crushed stone under his driveway and used pavers. The DEP is requiring that the plans be revised to indicate the proper placement of hay bales for sedimentation control/a limit of work. Barbosa will submit the revised plan. Spillman will give priority to this case, after more urgent cases, e.g. septic system replacements.

NoI 307-____: 36 Central Street, (Map 41, Lot 48), James Ragan

Proof of abutter notification was submitted previously; Olcott read the legal ad.

Mr. Ragan was present and stated that his proposal is to remove several (5) dead and diseased trees within the Buffer Zone, Bordering Vegetated Wetland, and Riverfront Area of School Brook; the trees included in the request include (3 Maples, Ash, Cherry). He referred to safety reasons for his request to remove the trees, saying that some are dropping large branches and his concern is the potential for personal injury.

Mr. Ragan stated that the largest tree would be removed professionally; he would remove the smaller ones. Spillman identified that she has made a site visit of the property and agree that the trees proposed to be cut are dead or diseased. Harmer explained that the DEP online comment is that removal of trees from the wetland is not justified. The TCC will make a site visit next week on Wednesday, March 5th at 5 P.M. Mr. Ragan will mark the trees in question.

Stump made a motion to continue the hearing under the Act and the Bylaw until March 12th in order to receive the DEP comments/file number and in order to have the site visit. The motion was seconded and carried unanimously.

NoI 307-___: 166 Washington Street, (Map 39, Lot 75), Greg Licata

Proof of abutter notification was submitted previously; Olcott Read legal ad.

Mr. Licata was present and told the TCC that currently there is a single car garage with breezeway and he proposes to remove this structure to replace it with an extension of the kitchen and playroom in the Buffer Zone to BVW. Spillman identified that this activity is approximately 75-85 feet from the wetland.

Spillman reported that the DEP online comments states, "Needs Plans," noting that the sketch plan submitted does not show distances. Spillman marked up a plan and has submitted it to the DEP.

Stump made a motion to continue the hearing for 166 Washington Street under the Act and the Bylaw until March 12th in order to receive the DEP comments/file number and any other requested information. The motion was seconded and carried unanimously.

NoI 307-___: 94 South Main Street, (Map 49, Lots 27 & 27A) Emily and Timothy Collins/The Neve-Morin Group, Inc. Greg Hochmuth

Proof of abutter notification was submitted; Olcott read the legal ad.

Spillman identified that there are two active orders on this property and that the Resource Area boundary reviews are still good (within 3 years). Representative Hochmuth told the TCC that the Collins's have a new plan for the pool, and patio area. He explained the plan revisions, which include a proposal to extend the newly constructed pool house. The new pool would be farther from the river/wetlands but an additional 600 sq. ft. of patio would be installed. As mitigation, a maintained lawn of 1200 sq. ft. would be allowed to revert back to its natural state. An existing stone wall would be relocated to a farther lot line, with the addition of extensive native plantings. A letter from an arborist will confirm that the ash trees on site are diseased; the plan proposes to replace them with sugar maples. An existing chain-link fence would be replaced with a different kind of fence, to maintain the property boundary. TCC requested that this fence be pulled away from the wetlands. Spillman suggested that the fruit trees be planted farther from the wetlands; this will be considered during the site visit.

The TCC will make a site visit on Wednesday, March 5th at 5:30 P.M.

Stump made a motion to continue the hearing under the Act and the Bylaw until March 12th in order to receive the DEP comments/file number and make a site visit. The motion was seconded and carried unanimously.

NoI 307-___: 39 Prospect Street, (Map 40, Lot 97), Mark Dorn/Mill River Consulting

Proof of abutter notification was submitted; Olcott read the legal ad. Mark Dorn, Dan Ottenheimer of Mill River Consulting, and Jennifer Hughes of Rimmer Environmental were present. This filing is a requirement of the Enforcement Order issued 1/23/2008, for Resource Area Restoration, including "planting vegetation in the vicinity of the leach field, Bioretention Area, and Mitigation Area," and other restoration activities within the Buffer Zone of a Bordering Vegetated Wetland and within Riverfront Area of Slough Brook.

Ottenheimer reviewed that the house was constructed three years ago and a number of conditions were placed on the project, but they were not all addressed. Mr. Ottenheimer stated that it is the intention of the homeowner to resolve all outstanding issues. He explained that the only area for the leach field was in the Buffer Zone to Slough Brook and the general area of the leach field is where the three areas of concern are. Mr. Ottenheimer reviewed the site plans (of the lower area of the property) and referred to these while addressing the issues with the Commission. He stated that the bioretention area is constructed per plan, has the storage capacity per plan, and is functioning properly. Restoration plantings were not provided, so they are providing a planting plan. The mitigation area has wetlands plants growing in about half of it; the other half does not. The plan is to excavate out about 6-8 inches and plant wetland plants in the second half. Ms. Hughes noted that wetland soil is sporadic throughout the mitigation area.

She questioned whether some of the bright sand found had come from spoils of nearby excavation pits for soil tests. Spillman explained that a minimum of two feet of silt has come down the hill into this mitigation area and noted that the proposal does not include removal of the large amount of silt that has accumulated. Harmer explained that the mitigation area was not conditioned to be a constructed wetland such as a wetland replication area; rather it is conditioned to be a depressed area that eventually would become a wetland. There was discussion about the pipe coming out of the pond. Ottenheimer explained that the path down the hill is well stabilized. The area around the house is in good condition except for a small 4-square-foot area that is not stabilized. Mr. Dorn intends to put a pool and wall behind the house. The TCC identified that their main concerns are at the bottom of the hill. Mr. Dorn talked briefly with the TCC regarding the property and his intentions to comply.

A site visit was scheduled for Monday, March 24th at 5 P.M.

Hughes questioned whether the area of the property near the house might be released from the EO. The Commission decided to wait until after the site visit. Ottenheimer asked about the possibility of a CoC for the first OoC. Spillman advised that a request for both CoCs (for the old and for the to-be-issued OoC) be filed at the same time.

Stump made a motion to continue the hearing for 39 Prospect Street under the Act and the Bylaw until March 26th in order to receive the DEP comments/file number and complete a site visit. The motion was seconded and carried unanimously.

NoI 307-___: 7 Birch Lane, (Map 24, Lot 28), Janet Grove/R.E. Thompson, Inc.

Proof of abutter notification previously was submitted; Olcott read the legal ad.

Janet Grove and Richard Thompson were present.

The proposal is to collapse and fill an old swimming pool and haul the pool apron offsite.

Spillman reported that the DEP comment online says, "Under Review." Representative Thompson told the TCC that if they were to break up the 15-inch cement walls of the pool, large equipment would be necessary; therefore, he proposes to fill the pool with gravel and sand. The decking would be removed. The area would be seeded. He said that access would be across the lawn and there is no intention to go outside the fenced area. Two-inch holes would be drilled in the cement on the bottom of the pool for drainage. Harmer explained that it looks like the pool was built in a wet area. The TCC asked that as much of the pool be removed as possible.

The TCC addressed the request for a reduction in the Bylaw filing fee.

Stump made a motion to reduce the filing fee from \$700.00 to \$200.00. The TCC agreed that this is an improvement and compared it to other filing fees for work comparable to that proposed. The motion was seconded and carried unanimously.

Stump made a motion to continue the hearing under the Act and the Bylaw until March 12th in order to receive the DEP comments/file number. The motion was seconded and carried unanimously.

NoI 307-0612: 126 Main Street, (Map 25, Lot 2), Susan Adams (Executor of the property)/H. L. Graham Associates, Inc.

Proof of abutter notification was submitted; Olcott read the legal ad.

Sue Adams and Jerry McDonald of H. L. Graham Associates were present.

The proposal is to replace a failed septic system of a small historic three-bedroom home in the Buffer Zone to BVW. The wetland line has not been reviewed. McDonald noted that this is a fairly extensive wetland partly fed from a culvert off Main Street. He stated that hay bales and silt fencing would be placed on site to protect sediment from getting to the wetlands and told the TCC that all the proposed work is beyond the 50-foot buffer zone. A stockpile area was identified and McDonald confirmed that all unused soils would be removed to offsite.

McDonald stated that the BOH would be reviewing the project at their meeting the next night.

Spillman noted that on the plan she measured the distance from the closest wetland flag to the impermeable membrane of the septic system as 48 feet. This distance should be shown on the plan.

Ms. Adams explained that there is no one living in the house, and that the property is going to be put on the market as soon as possible. TCC questioned if the State considers the membrane as a part of the septic system; the State requires 50 feet minimum from wetland to septic system. McDonald explained that the minimum 50 feet is from the wetland to the leach system itself, rather than to the other components of the system. In this case, there is a 5-10 foot margin. TCC agreed that there is no other place for the system.

An on site visit was scheduled for Friday, February 29, 2008 at 9:30 a.m., to review the wetland line. Spillman identified that the DEP has no comments.

Stump made a motion to continue the hearing under the Act and the Bylaw to March 12, 2008 in order to have a review of the wetland boundary. The motion was seconded and carried unanimously.

MEETING:

RDA, 2008-01: 50 Brookside Road (Map 27, Lot 1), Dorothy Cornetta.

Proof of abutter notification was submitted; Olcott read the legal ad.

Chris Cornetta was present to represent his mother.

The proposal is to remove numerous (11) trees, some of which overhang the deck and house; the stumps would be left so as not to disrupt the soil. No stumps would be removed. Cornetta acknowledged that this is in the Riverfront Area of Mile Brook and he explained that Mike Lynch would be hired to do the work. Spillman described the topography of the site and noted that this is a “semi-lawn” area with mostly healthy, mature trees.

The TCC scheduled a site visit for March 7th at 10:00 PM.

Stump made a motion to continue the meeting under the Act and the Bylaw until March 12, 2008 in order to have the site visit. The motion was seconded and carried unanimously.

MEETING MINUTES:

Stump made a motion to approve the minutes of 1/9/2008 as amended. The motion was seconded and carried unanimously.

Stump made a motion to approve the minutes of 6/13/2001, 6/27/2001, 10/10/2001, 10/24/2001, and Executive Session 4/10/2002 as amended. The motion was seconded and carried unanimously.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

OoC 307-0583 Coppermine Road, Ferncroft Country Club Ponds – DEP requirements.

The TCC was referred to the letter from DEP concerning water quality certification. There are additional requirements, e.g. the proposed boulders on the side slope of the old dump area replaced with additional vegetation. Spillman reported that she spoke with Mike DeRosa, who indicated that the TCC was sent copies of all relevant reports, but Spillman is uncertain that all such reports and documents have been received.

If the plans are revised, the TCC needs to be notified. If TCC thinks an Amended OoC is necessary, a filing for an amendment will be needed. Spillman is to write a letter to DeRosa and the Ferncroft Country Club explaining this. TCC will review the plans.

Prospect Hill/Gail Street Drainage – update

Harmer will contact Dave Bond about revising the plan for the proposed drainage easement.

OoCs 307-0529 and 307-0485, 102 River Road, (Map 47, Lot 49) – update

Reportedly Building Inspector Glenn Clohecy and the owner, Chris Esposito, have been communicating by phone. The Commission is concerned that the process has gone on for over three years.

Tree Clearing in Buffer Zone at 120 High Street Development

Spillman reviewed that the State Forester for this region told Mr. Falzone that the proposed tree cutting is not of the nature that they review. Spillman reported that there is no request for an Amended OoC filed to date for the modifications that have occurred on lot 23.

Discussion followed regarding the construction and degree of functioning of the detention ponds in the subdivision.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Enforcement Order, Violation Notice & Bylaw Ticket #2007-03: 43 Cross Street, (Map 62, Lot 2), Christopher Nash – update

Harmer identified that the DEP is requesting a site visit. TCC is attempting to schedule a joint site visit with Nash, the TCC, and the DEP.

Spillman noted that the big trench should be restored to a more natural slope; the ditch was dug down to groundwater.

Violation Notice & Ticket #2008-01, DoA 2006-18 and Violation Notice #2007-15, 41

Surrey Lane, (Map 23, Lot 3), Roy Cheever – update

Spillman filed a Complaint on behalf of TCC with Ipswich District Court on Tuesday.

Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update

Harmer referred TCC to the DEP Comments to the NoI (that was submitted as required by the EO), which conclude that “Project should not be permitted as proposed” and that “Restoration of altered resource areas is recommended.” DEP also does not like the proposed well. Harmer also expressed concern that the proposed pipe for drainage would change the flow downstream to other wetlands. TCC needs to think about what requirements will be made, especially with respect to the necessary restoration. The Hearing for the NoI has been continued to March 12th; this will be addressed at the March 12th meeting.

Violation Notice & Ticket #2007-04: 5 Fox Run Road, (Map 47, Lot 28), Jeffrey and Lynn Evalul. Spillman reported that a site visit is scheduled for March 10th.

Enforcement Order: 50 Prospect Street, (Map 48, Lot 12), John Molloy/Hancock Associates
No update was given.

Amended Enforcement Order, Violation Notice & Ticket #2006-20: 221 Washington Street, (Map 47, Lot 2), Andrzej Galka No update was given.

ADMINISTRATOR’S REPORT:

MACC Annual Conference is Saturday, March 1, 2008.

The TCC will meet at the Town Hall and carpool.

Approved

Expo 2008 – March 29th

TCC secretary Trish Kubaska is working on the display and materials for distribution at the Expo 2008.

9:30 P.M. Stump made a motion to adjourn and the Commission voted unanimously to do so.

Respectfully submitted,

Catherine Tinsley, Minutes Secretary

Approved at the TCC meeting on March 12, 2008